

BILL # SB 1097

TITLE: domestic violence; orders of protection

SPONSOR: Johnson

STATUS: As Introduced

PREPARED BY: Kevin Bates

FISCAL ANALYSIS

Description

This bill would require a hearing to be held before issuing an order of protection, except for emergency orders of protection.

Estimated Impact

The fiscal impact of the bill cannot be determined with certainty. Although a hearing would result in additional court workload, the magnitude will depend on the number of defendants who appear to contest the protection order. Approximately 18% of orders are currently challenged. If the bill were to double that number, for example, the added workload for judges would translate into a potential cost of \$115,200 to the state and \$288,300 to local governments.

In addition, the state formula for funding Superior Court judges solely depends on population, not workload, so state spending would not increase automatically. In addition to the cost of judges, local governments would also incur costs for court support personnel, including prosecutors, public defendants, and court reporters.

Analysis

According to data provided by the Administrative Office of the Courts (AOC), more than 32,000 petitions for an order of protection were filed in Superior, justice, and municipal courts across the state in FY 2005. Of those, 26% were filed in Superior Court, 34% were filed in justice Courts, and 40% were filed in municipal courts. Of those petitions filed, 85% were granted by a judge, commissioner or magistrate. These figures are similar to those previous years.

Currently, an order of protection can be issued by a judge, commissioner, or magistrate after an ex-parte hearing, which is a meeting or hearing conducted with only one party. A full hearing is not required. After the order is issued, the person against whom the order is issued can request a hearing before a judge. According to the AOC, in FY 2004 approximately 18% of petitions were challenged by the defendant and brought before a judge. Using the 18% estimate, in FY 2005 this would have resulted in about 5,800 hearings conducted on challenged orders of protection and 26,300 orders filed without hearings.

Assuming that each hearing lasts 1 hour and that orders issued without a hearing require an average of 10 minutes of a judge's time, orders of protection used nearly 10,200 hours of court time in FY 2005. It is difficult to project how many hearings would result because it is difficult to predict how many defendants would actually appear in court for the hearing despite the new requirement. For illustrative purposes, this analysis assumes that the number of contested petition hearings would double. This would increase the amount of time required to process the petitions to nearly 15,000 hours. This figure includes the 10 minutes needed for all of the uncontested hearings.

The fiscal impact of these additional hours is calculated by determining the number of the additional courtroom hours required and allocating a percentage to each of the 3 levels of Arizona's judicial system – Superior, justice, and municipal courts. After assigning a proportionate number of the 2.3 total judicial FTE Positions to each level based on the AOC data indicating where orders are requested, salary and employee-related expenditure costs of \$166,600 for Superior Courts and \$82,800 for justice courts were calculated using Superior Court judges' salaries and the average justice court judge's salary. Costs of \$154,100 were calculated for municipal courts and were made based on the average salary of a justice court judge.

If additional judges were hired, the state would incur costs of \$115,200, a combination of \$83,300 for the 50% state responsibility of Superior Court judges' salary and ERE, along with \$31,900 for the 38.5% of justice of the peace salaries and ERE, for which the state is responsible pursuant to A.R.S. § 22-117. Local governments would be responsible for the remaining \$288,300, a combination of the remaining 61.5% of justice of the peace costs, along with those for municipal courts.

The bill also may affect the availability of federal domestic violence funding received by the state. Federal domestic violence monies frequently are accompanied by stipulations that "mutual" orders of protection, in which both parties are prohibited from contacting each other, not be included in state laws governing domestic violence. The proposed bill, while forbidding mutual orders of protection, includes language in Section 2, Paragraph O that allows the arrest of the person requesting the order of protection if that person violates any of its provisions.

Domestic violence organizations are concerned that the proposed bill's language allowing the arrest of the person requesting the order of protection could be construed as violating this prohibition of mutual protection orders.

Local Government Impact

As illustrated, the bill could increase costs for county and municipal courts a total of \$288,300. Counties are responsible for 50% of a Superior Court judge's salary and ERE, which would be \$83,300. At the average justice of the peace salary of \$86,141 and because counties are responsible for 61.5% of that cost as well as ERE, counties also would incur a total cost of \$50,900. Assuming a similar judicial salary and ERE level as justice courts, the cost at the municipal level is \$154,100, for a total local government impact of \$288,300. Other costs resulting from case backlogs additional time needed to process protection order petitions in these jurisdictions could be incurred.

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